

REMARKS

Pending Claims

Claims 9-18 were previously pending in the application. By the Amendment, Claims 9, 13, 16, and 17 are currently amended and Claims 10-12, 14-15, and 18 remain unchanged.

Claim Amendments

Claim 9 has been amended to incorporate the language of Claim 16 reciting that the second storage compartment portion has a second horizontally-directed depth that is “less than half of” the full first horizontally-directed depth. No new matter is added.

Claims 13, 16, and 17 have been amended to clerical oversights. Claim 17 in particular was amended to correct the phrase “following the first storage compartment portion in a longitudinal direction,” which is comparable to the wording used in independent claims 9 and 16. No new matter is added.

Double Patenting Rejection

Claims 9-16 stand rejected on the grounds of non-statutory obviousness-type double patenting as being unpatentable over Claim 1 of U.S. Patent No. D483384. However, Applicant is willing to provide an appropriate terminal disclaimer with respect to U.S. Patent No. D483384 in the event that the currently-pending Claims 9 – 13 and 16 are ultimately deemed allowable.

Allowable Subject Matter

Applicant gratefully acknowledges the Examiner’s recognition that Claims 17 and 18 are allowable. As explained further herein, Applicant respectfully submits that all of the pending claims are allowable over the art of record.

Rejections under 35 USC §102

The claims stand rejected under the cited prior art of record. Specifically, Claims 9, 10, 12, and 13 were rejected under 35 USC §102(b) as being anticipated by Gentz (USP 2,074,785). However, in view of the amendments and arguments presented herein, Applicant respectfully submits that these rejections have been traversed.

Claim 9 has been amended to recite that the second storage compartment portion has a second horizontally-directed depth which is “less than half of” the full first horizontally-directed depth. In contrast, Gentz states that the recessed portion of the basket 34 is “one-half the width” of the remainder of the basket (page 2, left col., lines 12-13; see also Figure 4 of Gentz). Furthermore, Gentz’s motivation for making a portion of the shelf narrower is not to accommodate tall articles below but to provide specialized storage space: “[t]he narrower portion affords a storage space for relatively flat articles.” Page 2, left col., lines 13-15.

Thus, a tall object such as a bottle, if it were placed in a lower door shelf, would not fit properly next to the upper, recessed shelf 34 because the recessed portion in Gentz’s shelf extends out too far in the horizontal direction. An object such as a tall bottle that occupies the full width of a shelf, but which narrows to a taper at the top, will nevertheless require an amount of space that is greater than half the full shelf width. Gentz’s half-width shelf will interfere with the tops of such tall objects.

In rejecting Claim 16, the Examiner states that making the recessed portion have a horizontally-directed depth that is less than half of the full depth is “an obvious design consideration.” However, the Examiner provides no indication as to why one skilled in the art would choose this particular design over the infinite number of other possible designs. Certainly, nothing in Gentz would have taught a person skilled in the art to make the recessed portion less than half the full width.

For at least the above reasons, Claim 9 is allowable over Gentz.

Claim 12 is allowable over Gentz insofar as the shelf structures disclosed in Gentz are made of numerous steel wires that must be bent and assembled together to form the

shelf. Thus, Gentz does not disclose making a storage compartment that is formed as a one-piece part as claimed.

Claim 13 is also allowable over Gentz. The Examiner does not recite any structure in Gentz that shows a box-shaped shelf as claimed. Furthermore, element 39 of Gentz, which is stated to be an intermediate wall, is in fact a wire that is underneath the lower level 37 and is for supporting the longitudinal rods 38 (page 2, left col., lines 20-23). It follows that element 39 of Gentz, being underneath the lower level 37 of basket 34, does not separate the first and second storage compartments as is required of the intermediate wall element of Claim 13.

As detailed in Applicant's specification, the intermediate wall of Claim 13 serves the additional purpose of strengthening the shelf:

In order to increase the bending stiffness of the door storage compartment when it is loaded, an intermediate wall 3 is provided in the area in which the two sections 1, 2 are adjacent to one another and connects front walls 4, 5 (which face the interior of the refrigerator) of the sections 1, 2 to an integral rear wall 6, which is common to the two sections 1, 2 and rests on the inner wall of the refrigerator door when the door storage compartment is installed. The intermediate wall 3 on the one hand prevents the rear wall 6 from bending laterally when subjected to a bending load, while on the other hand it forms a support for the front wall 5 of the section 2 of smaller depth.

Originally-submitted specification, page 7, lines 15-26 (emphasis added).

In contrast, the shelf structures in Gentz are made of heavy steel wires that are not in need of such structural reinforcement. Thus, Gentz provides no teachings whatsoever that would lead one skilled in the art to provide an intermediate wall as claimed.

Claim 10 is allowable at least for the reason that it depends from allowable independent Claim 9.

Rejections under 35 USC §103

Claims 11 and 16 were rejected under 35 USC §103(a) as being unpatentable over Gentz. However, in view of the amendments and arguments presented herein, Applicant respectfully submits that these rejections have been traversed.

Claim 16 is allowable over Gentz because, as discussed above with regard to Claim 9, one skilled in the art would have found no guidance in Gentz to make the recessed portion of the shelf with a horizontally-directed depth which is less than half of the full shelf depth. Of the infinite design choices available, nothing in Gentz would direct one skilled in the art to make this particular choice.

Moreover, Applicant's claimed design has advantages over that disclosed in Gentz. The stated motivation in Gentz was to provide shelf space to accommodate narrower items, which led Gentz to provide a recessed shelf that is exactly half the full shelf width. However, this would not have provided any guidance regarding the design of a recessed shelf that accommodates the placement of taller items in the shelf below.

Claim 11 is allowable at least for the reason that it depends from allowable independent Claim 9.

CONCLUSION

In view of the above, entry of the present Amendment and allowance of Claims 9-18 are respectfully requested. If the Examiner has any questions regarding this amendment, the Examiner is requested to contact the undersigned. If an extension of time for this paper is required, petition for extension is herewith made.

Respectfully submitted



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